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MICROSOFT CORPORATION

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

MICROSOFT CORPORATION, a Washington
corporation,

Plaintiff,

vs.

A&S ELECTRONICS, INC., a California
corporation d/b/a TRUSTPRICE.COM; and
ALAN Z. LIN, an individual,

Defendants.

Case No. 4:15-cv-03570-YGR

**ORDER GRANTING
STIPULATION TO PERMIT MICROSOFT
TO FILE THIRD AMENDED COMPLAINT**

1 WHEREAS Defendants A&S Electronics, Inc. and Alan Z. Lin (“Defendants”) filed a
2 Motion to Dismiss Microsoft’s First Amended Complaint (Dkt. No. 26); and

3 WHEREAS on December 11, 2015, the Court issued a Tentative Ruling granting
4 Defendants’ Motion to Dismiss with leave to amend (Dkt. No. 37), and directing the parties to
5 either stipulate to the entry of the Tentative Ruling or to appear for the scheduled oral argument on
6 Defendants’ Motion; and

7 WHEREAS on December 14, 2015, the parties stipulated to entry of the Tentative Ruling
8 (Dkt. No. 38); and

9 WHEREAS on December 14, 2015, the Court entered the parties’ stipulation (Dkt. No. 39),
10 and directed Microsoft to file its Second Amended Complaint on or before January 12, 2016; and

11 WHEREAS on January 12, 2016, Microsoft filed its Second Amended Complaint (Dkt. No.
12 40), in which it alleged the terms of two license agreements that it contends support its claim for
13 contributory copyright infringement pursuant to the reasoning in the Court’s December 11, 2015
14 Tentative Ruling; and

15 WHEREAS on January 29, 2016, Defendants filed a Motion to Dismiss Microsoft’s Second
16 Amended Complaint (Dkt. No. 41), and noticed a hearing for March 8, 2016; and

17 WHEREAS in the process of preparing its Opposition to Defendants’ pending Motion to
18 Dismiss, Microsoft discovered a discrepancy in the terms of one of the license agreements alleged
19 in the Second Amended Complaint—the Microsoft Software License Agreement for Microsoft
20 Office 2013 Desktop Application Software (“Office 2013 License Agreement”)—relating to the
21 transferability of Microsoft Office 2013 software; and

22 WHEREAS Microsoft is otherwise fully prepared to file its Opposition to Defendants’
23 Motion to Dismiss the Second Amended Complaint by the February 12, 2016 deadline; and

24 WHEREAS the parties agree that the litigation is best served if the Court’s decision is
25 rendered on the basis of the correct language in the Office 2013 License Agreement; and

1 WHEREAS the parties agree that, given the significance of Microsoft's license agreements
2 to the Court's reasoning in the December 11, 2015 Tentative Ruling, Microsoft should amend its
3 Complaint to set forth the exact terms of the Office 2013 License Agreement before the Court
4 adjudicates the merits of Microsoft's allegations.

5 NOW THEREFORE, the parties HEREBY STIPULATE AND AGREE AS FOLLOWS:

6 1. Microsoft is granted leave to file a Third Amended Complaint to allege the exact
7 terms governing the Office 2013 License Agreement;

8 2. Microsoft shall file its Third Amended Complaint within three (3) court days of the
9 filing of this Stipulation;

10 3. Upon filing of Microsoft's Third Amended Complaint, Defendants' pending Motion
11 to Dismiss (Dkt. No. 41) will be moot and should be taken off calendar.


12 4. Defendants shall have twenty (20) days to move to dismiss, answer, or otherwise
13 respond to Microsoft's Third Amended Complaint from the date on which it is filed.

14 IT IS SO STIPULATED.

15
16
17 ORDER

18 Pursuant to the above stipulation of the parties, IT IS SO ORDERED.
19

20 Dated: February 17, 2016

21 
22 YVONNE GONZALEZ ROGERS
23 UNITED STATES DISTRICT COURT
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